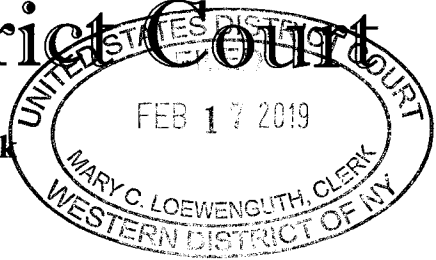


United States District Court

for the
Western District of New York



United States of America

v.

Case No. 19-MJ- 4018

GABRIEL MURILLO

Defendant

CRIMINAL COMPLAINT

I, KATHRYN M. GAMBLE, Special Agent with the United States Department of Homeland Security, Homeland Security Investigations, the complainant in this case, state that the following is true to the best of my knowledge and belief:

Between in or about April 8, 2018 and February 16, 2019, in the Western District of New York, the defendant, GABRIEL MURILLO, violated Title 18 U.S.C. § 2422(b), an offense described as follows:

the defendant knowingly, using a facility or means of interstate and foreign commerce, attempted to persuade, induce, entice and coerce an individual who had not attained the age of 18 years, to engage in sexual activity for which any person can be charged with a criminal offense, in violation of Title 18, United States Code, Section 2422(b).

SEE ATTACHED AFFIDAVIT OF KATHRYN M. GAMBLE, SPECIAL AGENT, H.S.I.

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.


Complainant's signature

KATHRYN M. GAMBLE, S.A., H.S.I.
Printed name and title

Sworn to before me and signed in my presence.

Date: February 17, 2019


Judge's signature

City and State: Rochester, New York

HON. MARIAN W. PAYSON
UNITED STATES MAGISTRATE JUDGE
Printed name and title

19-mj-4018

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

I, Kathryn M. Gamble, being duly sworn, depose and state the following:

1. I am a Special Agent with the Department of Homeland Security, Homeland Security Investigations ("HSI"). I have been employed as a Special Agent since June 2008. As part of my daily duties as a Special Agent with HSI, I investigate crimes involving child exploitation and child pornography, including violations pertaining to the transportation, production, distribution, receipt, and possession of child pornography, in violation of Title 18, United States Code, Sections 2252 and 2252A. I also investigate crimes involving coercion and enticement of minors in violation of Title 18, United States Code Section 2422. I have received formal and on the job training in the area of child pornography and child exploitation. I have participated in the execution of numerous search warrants involving child pornography and the seizure of computers and other storage media. I have interviewed many individuals involved in child pornography and the sexual exploitation of children.

2. I make this affidavit in support of a criminal complaint charging GABRIEL MURILLO, with a violation of Title 18, United States Code, Section 2422(b), related to the online enticement of a minor.

3. All information contained in this affidavit is based upon my own personal knowledge, or has been related to me by other law enforcement agents. Since this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts

that I believe are necessary to establish probable cause to believe that GABRIEL MURILLO did knowingly violate Title 18, United States Code, Section 2422(b).

4. In April 2018, an undercover New York State Police (NYSP) Investigator (the UC), operating in the Western District of New York, engaged in an undercover investigation in an attempt to identify individuals using the Kik Messenger application to engage in criminal sexual activity with children. Kik Messenger is a mobile application that allows users to communicate via instant messaging, which communications are transmitted via Wi-Fi internet access or through a smartphone's data plan. Kik's servers are located in Canada. Kik operates using a means and facility of interstate and foreign commerce, that is, the Internet, and operates in and affecting interstate and foreign commerce. The UC posed on Kik as a 12 year old female named "Hannah." "Hannah's" Kik profile, which was visible to other Kik users, contained "Hannah's" photograph, which depicts an actual 11 year old child. This photograph has been approved by law enforcement for use in online undercover investigations.

5. On April 8, 2018, "Hannah" received messages on Kik from user name "flako4737", which had the display name of "Daddy,,". "[F]lako4737" (here after referred to as "the defendant") asked "Hannah", "How old are you". "Hannah" responded that she was a 12 year old female from New York. The defendant stated he was a 20-year-old male from California. "Hannah" advised the defendant, "Sorry but I'm lookin 4 a bf close by". The defendant responded, "I would travel", and, "You're sexy". "Hannah" then stated to the defendant, "Plus U probs don't like me cuz I'm way younger than u". The defendant responded, "Age doesn't matter to me." The defendant sent a picture of himself depicting an

apparent Hispanic male with a shaved head and goatee. The defendant went on to say, "Damn you're really sexy. I can't stop looking at your pic. I would treat you like a queen", and, "Like I said I will travel turst [sic] me. I would do anything to meet you and make you mine". When discussing what the defendant would do with the child when they met, he stated "With that body u have I would lick every inch of it". "Hannah" stated to the defendant, "4 reals u don't care I'm 12??? Like sum guys yell at me on here cuz they said I'm 2 young". The defendant replied, "Age doesn't matter to me. Does it bother you". In continuing to describe what he would like to do with the child when they met, the defendant stated he would "Kiss [the child] all over touch all over. Grab you ass lick your ass. Touch your pussy and lick it". The defendant provided his cell phone number, 909-634-XXXX, and asked the child to text him. Area code 909 is a California telephone area code that covers far eastern Los Angeles County and southwestern San Bernardino County. The defendant then continued to communicate with "Hannah" via the 909-634-XXXX phone number.

6. On or about April 10, 2018, the defendant asked "Hannah" what part of New York she lived in. "Hannah" advised the defendant she lived in Avon, New York, which is in Livingston County. The defendant advised "Hannah" that his name was "Gabriel" and expressed how he wanted to kiss the child. "Hannah" responded, "Like u sure u don't care I'm 12??? Like sum guys on kik got mad at me cuz they said I'm 2 young :/. I understand if u don't wanna". The defendant responded, "I don't mind baby. U don't mind right", and, "I fuckin like u. You're fuckin hot baby". "Hannah" responded, "Nope :) I'll b 13 in a few months any way". The defendant told "Hannah" that when they met in person, "I would want to do u". "Hannah" responded, "4 reals?? Like U don't care I'm a virgin?? :/". The defendant responded, "That doesn't matter baby.", and "I'll teach u".

7. On or about April 12, 2018, the defendant requested a photograph of "Hannah." In response, "Hannah" sent a pre-approved undercover photograph depicting an apparent young female child. The defendant responded, "Damn baby you're fuckin sexy. I want u". The defendant then sent "Hannah" another photograph of himself in which the defendant is wearing a gray tank top with a tattoo visible on the defendant's neck.

8. On or about April 13, 2018, the defendant stated to "Hannah," "Do you know what I mean when I tell u I want to eat you out". "Hannah" replied, "Yea I'm 12 not a freakin baby duh lmao". The defendant then stated, "Would you like me to do that to you". "Hannah" replied, "I never done that b4. Is it fun??" The defendant stated, U will enjoy it. It will make you feel good. It will get your pussy really wet". "Hannah" asked, "It won't hurt right??" The defendant replied, "No baby. Eating u out means I want to lick your pussy. It will make u feel good. I want your pussy to get wet baby".

9. On or about April 15, 2018, the defendant stated to "Hannah," "Baby I want you so bad". "Hannah" replied, "Really??? Like u don't think I'm dum cuz I'm 12 and nevs done it :/", and, "I'm afraid I ain't gonna like me cuz I'm younger than u". The defendant replied, "I would show u baby", and "I like it that you're younger than me baby". The defendant offered to send the child a new cell phone so the child could take pictures with it and send them to the defendant. The defendant stated, "I want it baby. I want to kiss you suck on your tits play with your pussy until it gets nice and wet then I'll lick your pussy juice and then stick my dick in u baby".

10. On or about April 18, 2018, the defendant stated he was checking on flights to fly to New York to see the child. The defendant asked, "How long do u want me to stay. 2

days r not enough". "Hannah" replied, "U can come as long as u want but like I gotta go 2 school sum lol like all weekend I don't have to though". The defendant then said, "I want to get your pussy so wet baby and then stick my dick in u really slow and gentle". The defendant then sent a website linked to adult pornography for the child to watch.

11. In response to an administrative subpoena, on April 18, 2018 Kik Interactive Inc. provided subscriber information for the defendant's Kik account, indicating that the account was registered by an email account: "gm5122898@gmail.com".

12. On or about April 19, 2018, the defendant asked "Hannah" for her email address so he could send her a video. "Hannah" provided the defendant with an undercover email address used in child pornography and enticement investigations. The defendant then sent "Hannah" an email from gm5122898@gmail.com that contained a video of adult pornography. The username displayed for the gm5122898@gmail.com was "gabriel murillo".

13. On or about April 23, 2018, law enforcement positively identified the defendant as California resident "GABRIEL MURILLO" (date of birth XX/XX/1974), through a California state driver's license containing a photograph which depicted the defendant. The driver's license photograph depicts same male depicted in the photographs sent to "Hannah" from the "flako4737" Kik account. MURILLO'S driver's license lists a street address in Ontario, CA. Based on the above information, law enforcement obtained MURILLO'S criminal history and found that law enforcement has identified an alias of "Flaco" in connection with MURILLO'S past arrests.

14. After July 15, 2018 MURILLO ceased to communicate with “Hannah”, after which “Hannah” made not further attempts to engage with MURILLO. However, on or about December 21, 2018, MURILLO unexpectedly contacted “Hannah” via text message, at which point the conversations resumed. Between December 21, 2018 and February 16, 2019, the conversations continued to be sexual in nature. For example, on January 16, 2019, MURILLO sent a message to “Hannah” stating, “I’ll b in Rochester on the 17 of next month I’ll be in the Red Roof hotel”.

15. On January 20, 2019, MURILLO sent “Hannah” a screenshot displaying flight confirmation information through OneTravel and provided a website link. The UC went to the website link and found that it was a booking confirmation showing that GABRIEL MURILLO had a flight booked a round trip flight from Los Angeles, California to Rochester, New York that departed on February 16, 2019. The booking confirmation also indicated that MURILLO booked a hotel room at the Microtel Inn by Wyndham from February 16, 2019 through February 23, 2019. The address of the hotel is listed as 905 Lehigh Station Road Henrietta, NY 14467.

16. On or about January 25, 2019, MURILLO asked “Hannah” how far she lived from Henrietta, NY, and stated “I never stopped thinking about you. I really love you”.

17. On or about January 30, 2019, MURILLO stated, “Baby so do u really want to have sexs with me”. “Hannah” replied, “Yea but like u know I nevs done it so I don’t wanna feel stupid”. MURILLO then stated, “U won’t baby. I want to taste you already. I bet you taste really good. U want me to taste you baby”. “Hannah” replied, “Wdym”, which stands for ‘what do you mean’. MURILLO stated, “Eat u out”. “Hannah” replied, “Oh

Imao ummm yea like I nevs done it b4 but we can if u teach me”, and, “Like u don’t care Im 13 right???? I just don’t wanna feel stupid when u get here :/”. MURILLO then replied, “All u have to do is lay down and let me eat your pussy out”, and, “No. Do u care that I’m 27”. MURILLO went on to send two website links that directed the UC to adult pornography.

18. On or about February 6, 2019, MURILLO discussed what he was going to do when he saw the child. MURILLO stated, “I’m going to do u really good baby. I’m going to eat your pussy out so good”. MURILLO stated he had already book a hotel room at the “Microinn” in Henrietta. MURILLO stated, “When we walk in the hotel room we’re going to start to fuck”. “Hannah” replied, “Like ur gonna show me right”. MURILLO then stated, “You’ll know what to do. Just watch the porn videos. You’ll b ok. Don’t b nervous. I’ll go slow. I’ll start by eating your pussy out”.

19. On or about February 8, 2019, a Federal Air Marshal confirmed with United Airlines that MURILLO booked the February 16, 2019 flight from Los Angeles, California to Rochester, New York, with a return flight on February 23, 2019.

20. On or about February 10, 2019, MURILLO stated, “6 more days baby. And you’ll b mine. Is that tight juicy pussy ready for Daddy”, and, “I’m going to be there in you soon too baby. U ready for me to be inside u”. MURILLO went on to say, “I think of how good it’s going to be when we fuck and u get my dick hard”. MURILLO sent a picture of an erect penis to “Hannah”.

21. Between February 10 and February 14, 2019, MURILLO continued to engage in sexually explicit conversations with “Hannah”. On February 11 MURILLO told

“Hannah” “I’m going to fuck u so good baby” and that “I’m so ready to eat that pussy baby”, among other things. On February 12, 2019, MURILLO instructed “Hannah” to continue to watch pornography and sent “Hannah” adult pornography links and said “is that pussy ready for me baby”, among other things. On February 13, 2019, MURILLO said that when he looks at “Hannah”’s picture, his “dick” gets “hard.”

22. On February 16, 2019, law enforcement staged at the Greater Rochester International Airport located at 1200 Brooks Avenue Rochester, New York 14624. MURILLO was observed exiting a plane from Los Angeles, and was taken into custody by law enforcement officers on site.

23. The defendant, GABRIEL MURILLO, was born in 1974 and is 44 years old. New York State Penal Law Section 130.65(4) states that a person is guilty of Sexual Abuse in the First Degree when he or she subjects another person to sexual contact when the other person is less than thirteen (13) years old and the actor is twenty-one (21) years old or older. Sexual Abuse in the First Degree is a Class D Felony offense under the New York State Penal Law.

CONCLUSION

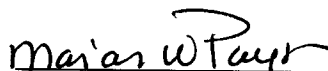
WHEREFORE, based on the foregoing, I respectfully submit that there is probable cause to believe that the defendant, GABRIEL MURILLO, did knowingly violate Title 18, United States Code, Section 2422(b) (Using a facility or means of interstate commerce to knowingly persuade, induce, entice or coerce a minor to engage in a sexual activity; with the belief that the individual has not attained the age of 18 years or attempted to do so).



KATHRYN M. GAMBLE
Special Agent
Homeland Security Investigations

Sworn to before me this

17 day of February, 2019.



MARIAN W. PAYSON
United States Magistrate Judge